

Remarks

This amendment and these remarks are responsive to the Office action dated January 6, 2005. Prior to entry of the above amendments, claims 1-5 and 8-11 are pending in the application with all claims rejected. By way of the present amendment, claim 1 has been amended. The amendment to claim 1 is fully supported by the specification and claims as originally filed. No new matter is added. Accordingly, in view of the remarks below, applicant respectfully requests allowance of the pending claims.

Claims 1-2

Claims 1 and 2 were rejected under 35 U.S.C. 102(b) as being anticipated by Lizuka et al. (U.S. Patent No. 5,415,004.) Applicant respectfully traverses the rejections. In order to anticipate a claim, a reference must teach every element of the claim. MPEP 2131. For at least the reasons discussed below, applicant submits that Lizuka fails to teach every element of claims 1 and 2.

Amended claim 1 recites, in part, "...engaging the device...when a speed ratio across a torque converter coupled to the engine is *less* than 1...." (Emphasis added.) In other words, claim 1 requires that the *output speed* of the torque converter be *greater than the input speed* in order to engage the device.

In support of the rejection of claim 1 and 2, the Office action refers to col. 1, lines 10-30 of the Lizuka patent. Col. 1, lines 10-30 disclose an air conditioner control device that stops operation of the air conditioner during acceleration and restarts operation of the air conditioner according to the up-shift operation of the automatic transmission. Lizuka then states that it is necessary that such a control device provide a detector for detecting input rotation speed of the

automatic transmission through the rotation speed of the turbine shaft of a torque converter in order to detect the finish of the up-shift operation.

It is noted that col. 1, lines 10-30 of the Lizuka patent are, in fact, a brief description of a Japanese prior art patent (JP-A-63-90420) and commentary thereupon, and not a description of the Lizuka invention. Further, the Lizuka reference itself actually teaches away from the Japanese disclosure (and, in fact, applicant's claim 1). Specifically, the stated purpose of the Lizuka disclosure is to *avoid* using a detector to detect rotation speed of a turbine of a torque converter when controlling operation of a vehicle's air conditioning unit (see, e.g. col. 1, lines 27-30, col 2, lines 3-6, and col. 4, lines 25-28).

That being said, the discussion of the Japanese patent in the Lizuka reference is limited to detection of the endpoint of the up-shift, which requires that the output speed of the torque converter be *less* than the input speed of the torque converter. There is no mention anywhere in Lizuka of detection when the output speed of the torque converter is *greater* than the input speed of the torque converter, nor is there any reason to do so. Moreover, because, as discussed above, the Lizuka reference teaches away from using a detector to detect rotation speed of a turbine of a torque converter, there is no motivation to modify the Lizuka reference to reproduce the present claim.

For at least the above-stated reasons, applicant respectfully submits that claim 1 is not anticipated by Lizuka. As such, applicant requests that the rejection be withdrawn. Claim 2 depends from claim 1 and therefore the rejection of claim 2 should also be withdrawn.

Claims 3-5

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lizuka et al. as applied to claim 1 and further in view of Spencer, Jr. Applicants respectfully traverse this

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rejection. In order to establish a *prima facie* case of obviousness the prior art references must teach or suggest all the claim limitations. Applicants respectfully submit alone or in combination, Lizuka and Spencer fail to teach or suggest all the limitations of claim 3.

Claim 3 ultimately depends from claim 1 and therefore includes the limitation that the engine operating condition is when the speed ratio across a torque converter coupled to the engine is less than 1. As discussed above in reference to the rejection of claim 1, Lizuka fails to teach this element. Spencer similarly fails to teach this element. Spencer discloses detection of activation of *brake lights* as an override mechanism for the deactivation of a vehicle's air conditioning unit during acceleration conditions (See, for example: Abstract; Col. 5, lines 23-28; Col. 7, lines 6-9; and Figs. 2 & 3). There is no mention in Spencer of any detection of the speed of the torque converter for any purpose. Applicant respectfully submits that, for at least the above-stated reasons, the rejection of claim 3 should be withdrawn.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lizuka et al. as applied to claim 1 and further in view of Spencer, Jr. and further in view of Official Notice. Applicant respectfully traverses this rejection.

Like claim 3, claims 4 and 5 ultimately depend from claim 1. For the reasons stated above with respect to claim 3, applicant respectfully submits that Lizuka and Spencer fail to teach or make obvious all of the elements of claims 4 and 5. The Official Notice is limited to stating that antilock braking systems and traction control involve the activation of the brakes of a vehicle. The Official Notice does not state that it known or obvious to engage a device as claimed when the speed ratio across a torque converter is less than 1. Applicant respectfully submits that for at least the above-stated reasons, the rejection of claims 4 and 5 should be withdrawn. Further, applicant objects to the use of Official Notice.

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Claims 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lizuka et al. as applied to claim 1 and further in view of Shockley. Applicants respectfully traverse the rejection. Applicants respectfully submit that for at least the following reasons, alone or in combination, Lizuka and Shockley fail to teach or make obvious all the elements of claim 8-11.

Claims 8-11

Claim 8 recites in part, "...indicating when the compressor can be engaged *with minimal driver perception* based on operating conditions...." The disclosures of both Lizuka and Shockley are limited to deactivating a vehicle's air conditioning unit during acceleration or other high demand conditions and reactivating the vehicle's air conditioning unit when such conditions are deemed to have ended. There is no discussion in either Lizuka or Shockley of utilizing driver perception as a factor in determining whether or not to engage the compressor for the air conditioning unit. Thus, for at least this reason, applicants believe claim 8 is in condition for allowance. Claims 9-11 depend from claim 8 and are believed to be allowable for at least the reason stated above with respect to claim 8.

Based on the foregoing comments, the above-identified application is believed to be in condition for allowance, and such allowance is courteously solicited. If any further amendment is necessary to advance prosecution and place this case in allowable condition, the Examiner is courteously requested to contact the undersigned by fax or telephone at the number listed below.

Please charge any cost incurred in the filing of this Amendment, along with any other costs, to Deposit Account No. 06-1510. If there are insufficient funds in this account, please charge the fees to Deposit Account No. 06-1505. A duplicate copy of this sheet is enclosed.

CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being sent via facsimile to the U.S. Patent and Trademark Office at (703) 872-9306 on April 4, 2005.



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Respectfully submitted,

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